

Merritt, Allen

From: Merritt, Allen
Sent: Monday, July 15, 2013 1:32 PM
To: watermanager@cableone.net; 'lynnharmon@cableone.net'
Cc: Peppersack, Jeff; Luke, Tim; Miller, Nick; Spencer, Nick; Southern Region; Fritschle, Carter; Craig Hobdey (hobdeycraig@gmail.com)
Subject: Delivery of Big Wood decrees below Magic

Kevin and Lynn,

As you may know the Department has received a request from two decreed right holders on the Big Wood River below Magic Reservoir to look into the matter of their recent curtailment as a consequence of the outflow from Magic Reservoir being shut off. I understand Kevin has received complaints from other users as well.

Kevin has sought guidance from the Director regarding this unusual situation and I have requested review from the Department's legal staff.

The legal staff has reviewed documents in our files including the 1930 court case between Arkoosh et al vs. BWCC and the 1954 and 1962 contracts between the Bureau of Reclamation and the AFRD#2/ BWCC.

Absent other documents unknown to the Department, the initial opinion of our legal staff is that the decree holders below Magic Reservoir should be delivered water based on priority of rights determined on the available water that is calculated on the inflow to Magic Reservoir minus the loss of 60.6 cfs determined in the Arkoosh et al vs. BWCC decree.

For example:

If the inflow to Magic Reservoir is 70.0 cfs then $(70.0 - 60.6)$ or 9.4 cfs should be delivered based on priority to the Big Wood River right holders below Magic. If the inflow drops below 60.6 cfs then the call is futile.

I understand that losses below Magic Reservoir may be more than 60.6 cfs but it is the initial opinion that the referenced court case perpetually enjoins the Department and the BWCC from determining otherwise and that any loss above 60.6 cfs is to somehow be made up by the BWCC.

Allen Merritt, PE
Idaho Dept of Water Resources
Southern Region Manager
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

Merritt, Allen

From: Merritt, Allen
Sent: Monday, July 15, 2013 2:49 PM
To: 'lynnharmon@cableone.net'; Craig Hobdey (hobdeycraig@gmail.com)
Cc: Luke, Tim; Spencer, Nick; Miller, Nick; Peppersack, Jeff; watermanager@cableone.net; Baxter, Garrick
Subject: FW: Delivery of Big Wood decrees below Magic

Lynn,

As you know this year's water situation on the Big Wood and storage in Magic Reservoir is very unusual. We have been addressing numerous complaints and the need to provide direction to Kevin in his regulation of the water. Knowing this was likely a controversial matter, I sought review from the Department's legal staff for a review of the complaint and an interpretation of the subject decrees and various contracts that may pertain to the situation. When I first read these documents I found them somewhat confusing. I agree that likely the water flowing into Magic Reservoir if not stored would likely sink before benefiting any decree holder below Magic absent exchanges of water with Snake River water.

If there are other documents or court cases that were not considered in the initial review please make the Department aware of them for further consideration. Maybe you and your attorney and the Department's attorneys and Water Distribution staff can discuss this matter in more detail if there are further questions or points to be made.

Allen

From: Lynn Harmon [<mailto:lynnharmon@cableone.net>]
Sent: Monday, July 15, 2013 1:50 PM
To: Merritt, Allen
Subject: RE: Delivery of Big Wood decrees below Magic

Allen, If I read the document correctly to read that the decrees will be handled as if the reservoir and canal system doesn't exist, then how is it if the inflow is passed and losses exceed the 60.6 cfs is it that BWCC is to make up this additional loss? Lynn Harmon

From: Merritt, Allen [<mailto:Allen.Merritt@idwr.idaho.gov>]
Sent: Monday, July 15, 2013 1:32 PM
To: watermanager@cableone.net; lynnharmon@cableone.net
Cc: Peppersack, Jeff; Luke, Tim; Miller, Nick; Spencer, Nick; Southern Region; Fritschle, Carter; hobdeycraig@gmail.com
Subject: Delivery of Big Wood decrees below Magic

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